



Federal Communications Commission
Washington, D.C. 20554

April 4, 2007

DA 07-1595

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CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Raleigh (WRDC-TV) Licensee, Inc.
WRDC(TV)
c/o Kathryn Schmeltzer, Esq.
Shaw Pittman LLP
2300 N Street, N.W.
Washington, D.C. 20037-1128

Re: Raleigh (WRDC-TV) Licensee, Inc.
WRDC(TV), Durham, NC
Facility ID No. 54963
File No. BRCT-20040730ARG

Dear Licensee:

This refers to your license renewal application for station WRDC(TV), Durham, NC.

In the Children's Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. Sections 303a, 303b and 394, Congress directed the Commission to adopt rules, *inter alia*, limiting the number of minutes of commercial matter that television stations may air during children's programming, and to consider in its review of television license renewals the extent to which the licensee has complied with such commercial limits. Pursuant to this statutory mandate, the Commission adopted Section 73.670 of its Rules (the Rules), 47 C.F.R. § 73.670, which limits the amount of commercial matter which may be aired during children's programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. The Commission also reaffirmed and clarified its long-standing policy against "program-length commercials." The Commission defined a "program-length commercial" as "a program associated with a product, in which commercials for that product are aired," and stated that the entire duration of any program-length commercial would be counted as commercial matter for the purpose of the children's television commercial limits.¹ The commercial limitations became effective on January 1, 1992.²

On July 30, 2004, you filed the above-referenced license renewal application for station WRDC(TV). In response to Section IV, Question 5 of that application, you certify that, during

¹ *Children's Television Programming*, 6 FCC Rcd 2111, 2118, *recon. granted in part*, 6 FCC Rcd 5093, 5098 (1991).

² *Children's Television Programming*, 6 FCC Rcd 5529, 5530 (1991).

the previous license term, WRDC(TV) failed to comply with the limitations on commercial matter in children's programming specified in Section 73.670 of the Rules. In Exhibit 19, you indicate that on September 13, 2002 during the program "Tarzan", station WRDC(TV) aired a commercial advertising "Disney on Ice", which contained an appearance by the program's Tarzan character. You attribute the violation to inadvertence.

In *Children's Television Programming (Recon.)*, the Commission stated that, in order to avoid being considered a program-length commercial, commercial matter related to a children's program must be separated from that program "by intervening and unrelated program material."³ To ensure that there was no confusion, the Commission "specifically note[d] that intervening commercial matter will not suffice as a separation device."⁴ The Commission made it clear in *Children's Television Programming*, that program-length commercials, by their very nature, are extremely serious, stating that the program-length commercial policy "directly addresses a fundamental regulatory concern, that children who have difficulty enough distinguishing program content from unrelated commercial matter, not be all the more confused by a show that interweaves program content and commercial matter."⁵ Although you indicate that the program-length commercial resulted from inadvertence, this does not mitigate or excuse the violation. In this regard, the Commission has repeatedly rejected human error and inadvertence as a basis for excusing violations of the children's television commercial limits.⁶

While we consider any violation of our rules limiting the amount of commercial matter in children's programming to be significant, the broadcast of the one program-length commercial described in your renewal application appears to have been an isolated occurrence. Although we do not rule out more severe sanctions for violations of this nature in the future, we have determined that an admonition is appropriate at this time. Therefore, based upon the facts and circumstances before us, we ADMONISH Raleigh (WRDC-TV) Licensee, Inc. for the violation of the children's television commercial limits rule and policies described in station WRDC(TV)'s renewal application. We remind you that the Commission expects all commercial television licensees to comply with the limits on commercial matter in children's programming.

³ 6 FCC Rcd at 5099.

⁴ *Id.* at 5099 n.89.

⁵ *Children's Television Programming*, 6 FCC Rcd at 2118.

⁶ See, e.g., *LeSea Broadcasting Corp. (WHKE(TV))*, 10 FCC Rcd 4977 (MMB 1995); *Buffalo Management Enterprises Corp. (WIVB-TV)*, 10 FCC Rcd 4959 (MMB 1995); *Act III Broadcasting License Corp. (WUTV(TV))*, 10 FCC Rcd 4957 (MMB 1995); *Ramar Communications, Inc. (KJTV(TV))*, 9 FCC Rcd 1831 (MMB 1994).

Accordingly, IT IS ORDERED that, a copy of this Letter shall be sent by First Class and Certified Mail, Return Receipt Requested to the licensee at the address listed above, and to its counsel, Kathryn Schmeltzer, Esquire, Shaw Pittman LLP, 2300 N Street, N.W., Washington, D.C. 20037-1128.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau